

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 14 November 2018

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APPLICATION REF. NO:	18/00866/CU
STATUTORY DECISION DATE:	13 November 2018
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	Castle Farm, Walworth Road, Walworth
DESCRIPTION:	Change Of Use Of Ground Floor Of Existing Domestic Garage To Commercial Kennels For Up To 8 Dogs (Use Class Sui Generis) And Creation Of Parking Area For 4 No. Vehicles And New Vehicular Access From Walworth Road (Re-submission)
APPLICANT:	Ms Jessica Emmerson

APPLICATION AND SITE DESCRIPTION

Members will recall a planning application (reference number 18/00420/CU) for the change of use of ground floor of existing domestic garage to commercial kennels for up to 8 dogs (Use Class Sui Generis) and creation of parking area for 4 No. vehicles and new vehicular access from Walworth Road which was refused by the Planning Applications Committee on 22 August 2018 for the following reason:

In the opinion of the Local Planning Authority, the proposed commercial dog kennels, when operational, would generate unacceptable noise levels and would have an adverse impact on the amenities of the occupiers of the existing neighbouring residential properties. The proposal would be contrary to Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document 2011 and the core principles of the National Planning Policy Framework 2018.

This revised planning application is an identical submission but it has been supported by a Noise Impact Assessment.

The application site is part of a former working farm, comprising the main dwelling and a range of former farm buildings located on the north side of the C39, Walworth Road, approximately 0.5km to the south west of Walworth Village. Paddocks to the north and west of the site, together with an area of woodland to the northeast known as Tomtit Wood, are in the ownership of the applicant. Two Public Rights of Way (Footpaths Nos 2 and 3 respectively) pass through and around the farm buildings. A group of former farm buildings, now in residential use, are located on the opposite side of the road and some of them are Grade II listed buildings.

This planning application is seeking planning permission for a change of use of the ground floor of an existing garage to commercial dog kennels, with an associated outdoor patio and exercise area enclosed by 1.2m high fencing, a new parking area within an adjacent paddock for up to four vehicles and a new separate vehicular access onto the C39 (Walworth Road) with entrance gates. A length of hedgerow (approximately 25m) would be removed to facilitate the new access point.

The garage is included within planning permission reference number 14/00590/FUL (see Planning History). The approved plans show it as a stone built structure to house two vehicles and plant and machinery on the ground floor with a workshop in the roof space accessed from an external flight of steps on the eastern end. The approved plans also show a timber carport on the western end of the garage to provide a third covered parking space. The garage has been partially completed.

The proposal involves very limited external alterations to the building, namely inserting glazing into the garage door openings and four roof lights in the roof slopes. Internally, the building would have a secure lobby area; a play area, eight individual compartments for the keeping of the animals and a welfare area with a wc. There would be no extensions or enlargement of the building and the first floor and the adjoining carport would be retained and used as storage areas. Immediately to the north of the building there would be an external patio and artificial grass exercise area which would be enclosed by a 1.2m high mesh and post fence.

A footpath would link the building to the new parking area for four cars and a new 4.2m wide road constructed from crushed compacted stone would lead from the parking area through the paddock to the west of the buildings and to a new separate access point into the C39. A set of vertical boarded gates would be erected at the entrance and a tarmac crossing would be constructed over the grass verge that runs alongside the carriageway.

The proposed kennels would operate between 07:30 to 19:30 Monday to Saturday only. The kennels would be closed on Sundays and Bank Holidays.

Application documents including Planning Statement, Design and Access statement, detailed plans, consultation responses, representations received and other background papers are available on the Darlington Borough Council website.

PLANNING HISTORY

The most recent planning entries for the application site and the associated farm buildings are:

14/00590/FUL In November 2014 planning permission was GRANTED for a change of use and alterations to existing agricultural building to domestic use and erection of a timber cattery building, together with erection of two storey side extension and single storey rear extension to dwelling and detached triple garage with workshop in the roof space

15/00543/ATH In September 2015 an application seeking the prior approval of the Local Planning Authority to convert an agricultural building to a dwelling was APPROVED. (This building has been demolished and therefore this approval cannot be implemented)

15/00670/FUL In September 2015 planning permission was GRANTED for the erection of a single storey extension to the side

18/00402/FUL In July 2018 planning permission was GRANTED for the erection of a two storey side extension, single storey rear extension and detached triple garage

18/00420/CU In August 2018 planning permission was REFUSED for change of use of ground floor of existing domestic garage to Commercial Kennels for up to 8 dogs (Use Class Sui Generis) and creation of parking area for 4 No. vehicles and new vehicular access from Walworth Road

PLANNING POLICY BACKGROUND

The following policies are relevant to the proposed development:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E5 - Change of use of Buildings in the Countryside

E12 - Trees and Development

Darlington Core Strategy Development Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy

CS2 - Achieving High Quality Sustainable Design

CS14 - Promoting Local Character and Distinctiveness

CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2018

RESULTS OF CONSULTATION AND PUBLICITY

Five letters of objection have been received and the comments can be summarised as follows:

- *As an immediate neighbour to the site of the "garage" we are of the view that the proposed change of use will have a serious impact on resident's standard of living, safety of the highways and cyclists, walkers and the general public's enjoyment of the area*
- *We strongly believe the previous decision (refusal) was the correct decision, as that application and this resubmission are contrary to the needs of Darlington Core Strategy Development Plan 2011*
- *The Acoustic Impact Assessment added to the resubmission should be disregarded as it relies on principles from Ireland, which are not compliant with UK Planning Policy in regard to noise impact; uses inaccurate data and gives a lack of consideration made to the frequency of traffic on Walworth Road*
- *We believe that the proximity of the Public Footpath to the proposed kennels would not only increase noise levels but also be intimidating thus dissuading people from enjoying the countryside. In addition the reaction from the dogs, barking at walkers and cyclists would increase the noise level for residents.*
- *Next to the Public Footpath are Castle Farm Cat Cabins, from which a considerable number of cats roam, aggravating resident's dogs in this area. More barking dogs from the proposed kennels would increase residents annoyance and disturbance levels considerably*
- *The drainage in the area of the proposed new access is inadequate, and this remains a serious concern with the risk of flooding. The ditches are full to overflowing during heavy rain, running across the road and flowing down a drive that leads to four family homes. The removal of hedgerow and draining ditches will result in a greater volume of water flowing towards nearby properties*
- *In addition the speed of traffic on the bend must be addressed and signage improved*

- *The proposed kennels and exercise area can be seen from the road, public footpath and will be viewed from residential properties adjacent. The Nearest Noise Sensitive Location will be in line of site of the building and the penned area for the dog exercise area*
- *Having our right "...right to peaceful enjoyment of all...possessions which includes the home and other land..."destroyed by barking dogs, except Sundays and Bank Holidays as suggested in this application must be contrary to The Human Rights Act.*
- *Previous planning applications at Castle Farm have given rise to a lack of trust in their ability to abide by planning permissions being granted by the Council. We are concerned that the operating hours will not be followed and their ability to ensure noise abatement from the commercial kennels is doubtful.*
- *In conclusion we believe that for the health, safety and well-being of others it is inappropriate to operate such a business within such close proximity to other dwellings, a public right of way and a busy road. We conclude that this development would result in a significant adverse impact on the nearby residents, and there is no identified need in the area for another dog kennels, and ask the committee to refuse this application.*
- *There's current noise pollution from the resident dogs at Castle Farm, and increasing the number of dogs will subsequently increase the level of barking, which can be heard at the Walworth Castle Hotel. The residents at The Barns must hear this louder than we do at the Hotel and I feel that the application of a kennel is far too close to residential properties.*
- *The proposed access is on a bend and there is a concern for road users. The addition of another entranceway will cause safety issues for people turning into and out of the proposed area as it is directly on a bend and there's a small dip which restricts visibility on a 60mph road. Therefore there is a concern for highway safety and road access.*
- *There will be a detrimental effect on the residential amenity of neighbours by reason of noise and disturbance and loss of privacy due to increased dogs and increased customers to the kennels.*
- *The effect of the development will tarnish the character of the neighbourhood and have an adverse effect on the development of the neighbourhood.*
- *As a resident adjacent to the Castle Farm residence I will suffer loss of peace and tranquillity which we enjoy*
- *I can find 15 businesses within the area which provide overnight and day car for dogs which would equate to 500 kennelling places. I would also point out that all the business locations are predominately on farms and away from residential dwellings*
- *I strongly believe that the measures contained within the Advisory Notes on Noise Pollution by Environmental Health will not and could not be met by the proposed development*
- *The contents of the Noise Assessment are flawed*
- *Cats from the cattery roam free and they will aggregate the dogs, along with road noise, public using the footpath*
- *The proposed entrance is on a bend of an extremely busy road that will be hazardous for drivers approaching the bend from either direction*
- *Drainage ditches have been maintained to a level to ensure the previous flooding of the roads and residential areas has not reoccurred. There appears to be nothing in the plans to deal with this issue.*
- *The dogs will bark at the users of the public footpath and dissuade walkers wishing to enjoy the countryside*
- *This area and buildings are of historic value which will be spoilt by a dog kennelling business*

- *The applicant's ability to abide by planning permissions being granted by the Council have not be previously followed therefore the ability to ensure noise abatement from the dogs is questionable*
- *I do not think a dog kennels is appropriate in this area. This is a quite country hamlet and barking dogs inside or out will ruin this. Also it is too close to residential homes, i.e. barn conversions. People have paid good money to live here*

Walworth Parish Meeting has objected to the planning application on the following grounds:

- *The noise assessment was carried out when there was no measurable wind and wind is the biggest carrier of noise. As the prevailing wind is south west, up into the residential village, it would pollute*
- *Car noise is transient*
- *Dogs barking all day*
- *Road safety*
- *There is a general lack of trust of the applicant adhering to planning rulings*

Consultee Responses

The **Council's Public Rights of Way Officer** has raised no objections

The **Council's Highways Engineer** has raised no objections

The **Council's Environmental Health Manager (Commercial)** has raised no objections

The **Council's Healthy New Towns Officer** has provided advice on heritage asset matters and has raised no objections

PLANNING ISSUES

The main issues to be considered here are whether or not the proposal is acceptable in the following terms:

- Planning Policy
- Residential Amenity
- Visual Appearance and Character of the Area
- Highway and Parking Matters
- Impact on Listed Buildings
- Impact on Public Rights of Way
- Impact on Trees and Hedge
- Drainage

Planning Policy

The site lies outside of development limits as defined by the Proposals Map of the Borough of Darlington Local Plan 1997. Saved policy E2 of the Local Plan states that outside development limits, agricultural and forestry operations, small scale development beneficial to the rural economy or rural community, developments by service providers, and countryside related recreation and sport development may be permitted outside of development limits provided that harm to the character and appearance of the rural area is avoided.

Policy CS1 of the Darlington Core Strategy Development Plan Document 2011 states that outside development limits, development will be limited to that required to meet identified rural needs.

Saved policy E4 of the Local Plan states that the change of use of existing buildings in the countryside will be permitted where the structure is sound and capable of conversion without

significant rebuild and extension and also provided that the use does not create unacceptable traffic, amenity and disturbance problems. The supporting text for this policy explains that there is no reason why existing buildings cannot be converted to uses which may help to diversify the rural economy. The change of use of buildings in the countryside could support the rural economy.

The proposal involves the conversion of a new domestic garage to a commercial use within the countryside. Arguably, the use of the building as a dog kennel may not be considered a use that would support or meet an identified rural enterprise or need and therefore the proposal could be considered contrary to local development plan policy even though some customers may be from the surrounding rural area and the scheme would accord with the requirements of Policy E4 of the Local Plan.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990).

If dog kennels are not considered to meet Saved policy E2 and policy CS1, this report will highlight the material planning considerations that Officers consider would support setting aside the local development plan policies and recommending approval in accordance with the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the National Planning Policy Framework 2018 which seeks to secure high quality design and good standards of amenity for all existing and future occupants of land and buildings.

The proposed business would be for the keeping of 8 dogs between the hours of 07:30 to 19:30 Monday to Saturday only with no dogs being kept overnight.

Following the decision by the Members of the Planning Applications Committee to refuse the previous application on residential amenity grounds, a consultant (Apex Acoustics) has been commissioned in order to submit a Noise Impact Assessment in support of the planning application.

Due to the sound reduction properties of the existing building, the noise from dogs in the external area will be more significant than that when the dogs are within the building and therefore the Assessment considered noise from dogs in the external exercise area only.

The Assessment concludes that noise levels from 8 – 12 dogs have been used to predict the potential worst case noise impact upon the nearest noise sensitive locations. The comparison between the calculated noise levels from the dogs (55dB(A) and the measurements of the existing environment shows that the existing daytime noise level due to road traffic (60dB(A) are 5dB greater than the calculated worst case dog barking noise levels, which are based on measurements of dogs encouraged to bark. The Assessment states that with all factors considered, it is highly unlikely that noise levels from the dog kennels will cause an adverse

impact upon the nearest noise sensitive locations, and will not result in a significant adverse impact on the nearest noise sensitive locations.

The contents and findings of the Assessment have been questioned within some of the objections. The comments are that the Assessment relies on principles from Ireland, which are not compliant with UK Planning Policy in regard to noise impact; uses inaccurate data as noise from barking dogs measured 80 dB(A), includes a lack of consideration made to the frequency of traffic on Walworth Road or the impact of wind on carrying noise.

Apex Acoustics have responded to the comments. They have stated:

- *There is currently no available guidance for the assessment of dogs from dog boarding kennels for use within the UK. Acoustic practitioners, consultants and Environmental Health Officers around the UK are each inconsistent in their approach. In contrast the Irish planning authorities have adopted a much more consistent criteria for the assessment of noise associated with dog boarding kennels. Instead of cherry picking criteria, we consider it more suitable to follow this tried and tested consistent approach;*
- *We consider the outdoor artificial grassed area to the north of the existing garage building to be where the noise levels from dogs will be highest and as such, have the potential to result in the highest dog barking noise levels at the nearest residential dwellings than from any other boarding kennel related activity. It is considered that noise from dogs within the kennel building will be attenuated by the building envelope to a significantly greater degree than that calculated from the external area proposed to be used to exercise the dogs*
- *The distance from the outdoor area to the nearest residential property has been measured to be approximately 30m. It would appear that objectors may have mistakenly measured from our background measurement position to the nearest residential property, which we understand to be approximately 13m.*
- *The potential effect of the wind on the calculated dog barking noise levels is considered likely to be marginal, on average, given the relatively short distance between the dogs and the dwellings*
- *The WHO Guidelines for Community Noise 1999 does not state that noise levels greater than 50dB are unacceptable*
- *We do not understand the reference to dogs barking for 10 minutes but we would note that the dogs are unlikely to be in the external area barking continuously for extended periods of time*
- *We would reiterate that during our measurements of dogs barking, the dogs were encouraged to do so to try and provide data which may be considered worst case*
- *The WHO Guidelines for Community Noise 1999 provides guideline limits for annoyance in outdoor environments based on LAeq, 16hr values. This is the equivalent of a continuous A weighted sound pressure level measures over a 16 hour period. As an average parameter, the value would include not only the periods where dogs are barking, as we have assessed, but the periods in between when there would be no noise from the kennels. This figure would almost certainly be lower than the 55dB we have used for our assessment and therefore would indicate a much less significant impact than reported. For this reason, the WHO guidelines for Community Noise are not considered suitable for the assessment of noise from commercial dog kennels*
- *It is understood that some complaints regarding barking dogs made to the Local Authority may involve other factors than noise alone. It is also understood that some complaints made regarding dogs barking relate to dogs left unattended in neighbouring dwellings. In this case, it is understood that the dogs will not be left unattended all day*

The Council's Environmental Health Manager did not object to the previous proposal. Having considered the Assessment and the comments made by the Consultants in response to the objection letters, the Environmental Health Manager has advised that there are no agreed guidance or specific legislation that relates to issues surrounding animal boarding establishments and consultants are expected to use sources of information available to them provided that it is valid and they can justify its use.

Noise complaints relating to dog barking can be very complex and involve a number of parameters. Dogs bark for a variety of reasons, for example loneliness, excitement, contact with other animals/stimuli etc. Dog barking at whatever volume, duration or intensity has the potential to cause complaint and is not limited to any of these individual characteristics, for example a dog barking loudly for 5 minutes every hour is just as likely to lead to complaints as a dog whining or barking in a muffled manner for a longer period of time.

Environmental Health do receive a large number of complaints relating to dogs barking but these relate, almost entirely, to domestic situations and not to commercial operations where the same factors do not necessarily have the same influence. Most dog boarding includes a 24 hour operation (which does not apply to this proposal) and are located in rural or semi-rural areas, not unlike the application site. The premises will require an Animal Boarding Establishment License which will include conditions relating to separation, facilities, exercise, infection control etc.

The Environmental Health Manager having considered the Assessment and other representations considers that he would be unable to lodge any form of objection to the proposal and reiterates his previous comments on the scheme which requested the imposition of planning conditions relating to the hours of operation and that no dogs are kept on site overnight.

The new access point is located further south of the residential properties and therefore, the occupants should not be adversely affected by the comings and goings of vehicles at this point. The parking area is for a limited number of vehicles and will be screened from the neighbouring dwellings by the existing hedgerow and noise generated by visitors would not result in conditions prejudicial to the amenities of the neighbouring properties.

The proposed hours of operation are not considered to be unreasonable in amenity terms and it is noted that the business would not operate on a Sunday or Bank Holiday.

Waste would be stored on site and then disposed as part of an agreement between the applicant and a private contractor.

Walworth Castle Hotel and the residential dwellings in that locality are in excess of 350m further north from the application site and they should not be directly affected by the proposal.

Whilst it is acknowledged that Members refused the previous application on amenity grounds, Officers consider that having taken the findings of the submitted Noise Assessment, the objections, further representations and the advice from the Environmental Health Manager into account, the planning application should be recommended for approval subject to appropriate planning conditions which place restrictions on the operation of the proposed business. Overall, the proposal is considered acceptable in amenity terms and would not be contrary to local development plan policy or the NPPF.

Visual Appearance and Character of the Area

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network

As part of the determination of planning application reference number 14/00590/FUL the existing garage building was designed to make it appropriate in terms of scale and appearance in this rural setting. The building would not be enlarged or extended as part of this proposal and the external alterations would occur on the north west facing elevation which is visible from the Public Footpath but not visible from Walworth Road. The new glazed areas within the existing openings would have dark grey UPVC frames. It is considered that the alterations to the building would not harm the design and appearance of the building or the wider street scene.

The parking area and access road would be located within a maintained grass paddock area to the west of the main group of buildings. There would still be a large amount of paddock area retained within the wider site and these hard standing areas and any vehicles using them would not be highly visible from Walworth Road due to existing hedgerow that bounds the site. The type of materials (crushed stone) used for the car park and road are considered acceptable in this location.

The use of mesh and post fencing to enclose the outdoor area for the dogs is appropriate for its rural setting.

The crossing within the highway verge and the removal of a section of the hedgerow would not harm the appearance of the country road. Precise details of the design of the gates can be secured by a planning condition.

It is considered that the proposed development would not harm the visual appearance of the area and a commercial business of this limited scale would not adversely harm its character.

Highway and Parking Matters

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification: Industrial and Estate Development

It is unlikely that the proposal will generate a significant increase in traffic due to the relatively small scale nature of the business. The proposed access arrangements are located in a suitable point on Walworth Road in order to maximise visibility in both directions. Plans have been submitted to show visibility splays appropriate to the speed limit to the south of the proposed access, with visibility requirements suitable for a 50mph speed limit located to the north of the access. Actual travelling speeds are lower due to the bend acting as a speed reducing feature and this is considered to be acceptable. This also offers significant betterment over the existing access arrangements to the farm house and buildings.

The access would be constructed in a sealed material from the carriageway edge to the highway boundary to prevent loose material being dragged onto the highway. Any access gate installed would need to be located within land owned by the applicant and should not open outwards over the highway. The gates need to be set far enough back to allow a car to pull off the carriageway should the gate be closed and the submitted plans show that this can be achieved.

The internal drive and turning facility is sufficient in terms of parking provision and will allow for vehicles to enter and exit in forward gear.

To compensate for the loss of the garage space, planning permission (ref no: 18/00402/FUL) has recently been granted for the erection of a new triple garage elsewhere on Castle Farm.

Any works within the highway will need to be to adoptable standard to ensure road safety and that the road access is sufficiently robust. The access is located at a point where a drainage ditch is located and as such the access must be constructed in such a way as to maintain this function, as large diameter pipes or culvert will be needed and this can be agreed as part of the S184 process.

The Council's Highways Engineer has raised no objections to the proposed development.

Impact on Listed Buildings

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy states that the distinctive character of the Borough's built and historic townscape, landscape and strong sense of place will be protected and where appropriate enhanced by protecting, enhancing and promoting the quality and integrity of Darlington's distinctive designated national or nationally significant built heritage and archaeology as well as buildings, features and landmarks on the local list.

Paragraph 192 of the National Planning Policy Framework 2018 (the NPPF) states that in determining planning applications, the local planning authority should take account of, amongst other matters, the desirability of new development making a positive contribution to local character and distinctiveness.

Setting is defined in the National Planning Policy Framework as "The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral".

Historic England guidance advises that the setting itself is not designated but every heritage asset, whether designated or not has a setting. Its importance and therefore the degree of protection it is offered in planning decisions, depends entirely on the contribution it makes to the significance of the heritage asset or its appreciation.

There are Grade II listed buildings on the opposite side of Walworth Road to the application site. They are a group of former farm buildings that have been converted into residential dwellings. The building that is located on the roadside, closest to the application site is not a listed building but the properties behind are designated heritage assets.

It is considered that the alterations to the garage, the increase of the curtilage to the field to the west and the formation of the new access onto Walworth Road would not be detrimental to the setting or character of the adjacent group of listed properties.

For clarification, the site and the dwellings opposite are not within a Conservation Area.

The proposal would accord with the NPPF and Policy CS14 of the Core Strategy.

Impact on Public Rights of Way

Footpath Number 3 in the Parish of Walworth runs through the farm in close proximity to the garage and exercise area for the dogs. This Footpath needs to remain safe and accessible during the construction phase of the development and also following completion and the operation of the proposed use. A management plan would be secured by the imposition of a planning condition.

In response to the objections, the Council's Public Right of Way Officer has acknowledged that users of the Footpath may experience noise from dogs barking but this would be short lived as users pass through the farm. The outdoor exercise area for the dogs is enclosed by a 1.2m high fence and it would be the responsibility of the applicant to ensure that users do not feel intimidated by any dogs and to ensure any dogs are confined within the kennels or the outdoor area.

An Informative can be attached to any approval to make the applicant aware that a Temporary Traffic Regulation Order would be required to close the Footpath during the construction phase.

Footpath No 2 runs to the east of the farm, further away from the application site would be an alternative route for users to join the wider Footpath network.

Impact on Trees and Hedges

Policy E12 (Trees and Development) of the Local Plan seeks to ensure that new development takes full account of trees and hedgerows on and adjacent to the development site. The layout and design of the development should wherever possible avoid the need to remove trees and hedgerows and to provide their successful retention and protection during development

There are two trees within the hedgerow that runs along the highway verge. The root protection areas of these trees would not be affected by the proposed development and protective hedges fencing would be erected to protect them during the construction phase. These protective measures would be secured by a planning condition.

A section of the existing hedge (approximately 25m) would be removed in order to create the new access. The remainder of the existing hedge would be retained.

Drainage

Foul sewage would be disposed of via a package treatment plant and surface water would be disposed of via a soakaway. As previously stated, the access is located at a point where a drainage ditch is located and as such the access must be constructed in such a way as to maintain this function, as large diameter pipes or culvert will be needed and this can be agreed as part of the S184 process.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

Applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance, it could be argued that the

conversion of the garage to commercial dog kennels would be contrary to local development plan, but Officers consider that the small scale nature of the use is a material planning consideration that would support setting aside the local development plan policy in this particular circumstance.

This revised planning application has been supported by a Noise Assessment in response to the refusal reason for the previous application. The Assessment has been considered by Environmental Health, along with all representations that have been received, and Officers consider the proposal would not adversely affect the amenities of the residential dwelling in the local area, subject to the imposition of appropriate planning conditions, to control the hours of operation of the business, the number of dogs on the premises and the prevention of dogs being kept overnight.

The application does not raise any visual amenity or highway safety concerns and it would not harm the setting of the listed buildings on the opposite side of the road. Appropriate planning conditions can ensure the retention and protection of the trees and the retained sections of hedgerow.

It is considered that the proposed change of use and associated works are acceptable in this rural location.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 - Implementation Limit (Three Years)
2. The development hereby approved shall be carried out in complete accordance with the approved plans listed below:
 - a) L017114-012 Rev A Proposed Plans and Elevations
 - b) L017114-014 Rev B Proposed Site Layout Plan
 - c) L017114-015 - Overall Site Layout Plan
 - d) L017114-016 - Visibility Splays

REASON: To ensure the development is carried out in accordance with the planning permission.

3. The business hereby approved shall not operate outside the hours of 07:30 to 19:30 Monday to Saturday only. The kennels and associated access shall be closed on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of residential amenity

4. The business hereby approved shall be for no more than eight dogs unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of residential amenity

5. No dogs associated with the business hereby approved shall be kept in the kennels or external areas overnight unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of residential amenity

6. Prior to the commencement of the use, precise details of the, height, design, location and materials of the access gate shall be to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON: In the interests of the visual appearance of the area

7. Prior to the commencement of the use, a Public Right of Way Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details as to how Footpath Number 3 in the Parish of Walworth will remain safe and accessible during the construction phase and once the use is operational. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON: To ensure that the Public Footpath can continue to be used.

8. Notwithstanding condition 6, the approved access gate shall not open outwards over the public highway

REASON: In the interests of highway safety

9. Notwithstanding the details shown on Drawing Number L017114-014 Rev B (Proposed Site Layout Plan), a scheme to protect the existing trees and hedges to be retained shall be fully implemented prior to the commencement of the development. The scheme shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees or hedges:

- a. The raising or lowering of levels in relation to the existing ground levels;
- b. Cutting of roots, digging of trenches or removal of soil;
- c. Erection of temporary buildings, roads or carrying out of any engineering operations;
- d. Lighting of fires;
- e. Driving of vehicles or storage of materials and equipment.

REASON - To ensure that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

E2 - Development Limits
E5 - Change of use of Buildings in the Countryside
E12 - Trees and Development

Darlington Core Strategy Development Document 2011

CS1 - Darlington's Sub-Regional Role and Locational Strategy
CS2 - Achieving High Quality Sustainable Design
CS14 - Promoting Local Character and Distinctiveness
CS16 - Protecting Environmental Resources, Human Health and Safety

National Planning Policy Framework 2018

INFORMATIVES

Highways

The applicant is advised that works are required within the public highway, to construct a new vehicle crossing and contact must be made with the Assistant Director : Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.

Public Rights of Way

The applicant is advised that a Temporary Traffic Regulation Order will be required in order to close a Public Footpath during the construction phase of the development and contact must be made with the Council's Public Rights of Way Officer (Mr Steven Petch 01325 406640) to discuss the matter further.